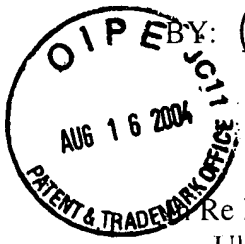


HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON THE DATE INDICATED BELOW.



BY:

Gene Cont

Date:

August 12, 2004

MAIL STOP AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Patent Application Of:
Ulrich Reiners et al.

Conf. No.: 4175

: Group Art Unit: 1773

Appln. No.: 09/851,460

: Examiner: Kevin R. Kruer

Filing Date: May 8, 2001

: Attorney Docket No.: 9784-3U2 (TH8002US/B)

Title: THERMO-FORMABLE MULTILAYER BARRIER FILM WITH THE
APPEARANCE AND TEXTURE OF PAPER

PETITION FOR REFUND OF EXTENSION OF TIME FEE

This is a Petition for Refund of the Extension of Time fee in the amount of \$950.00 in connection with the Petition for Extension of Time which is being filed concurrently herewith. This request is based upon delay of the Patent Office and the improper refusal of the Patent Office to grant Applicant's request for a new Office Action After Final (filed April 19, 2004) or at least to restart the time running for the final Office Action dated February 13, 2004, in the Advisory Action of July 13, 2004.

The undersigned received the Office Action of February 13, 2004 on February 19, and promptly forwarded the Office Action to Applicant's German attorney by fax on February 23, 2004. After consultation with Applicant and attempting to provide comments and instructions for responding to the final rejection of February 13, Applicant's German attorney faxed the undersigned on April 15, 2004, requesting a new Office Action, and on April 19, 2004, the undersigned prepared a Request for New Office Action After Final and filed it in the Patent Office by fax on the same day.

Our checks of private PAIR indicated that the request had been received by the Patent Office. When no response to the Request of April 19 had been received by June 25, the undersigned telephoned Examiner Kruer to determine the status of the Request. Examiner Kruer informed the undersigned that the Request had not been logged as an "After Final" response and

therefore had not appeared yet on his docket. He apologized for the oversight and said that he would look at it promptly.

Applicants finally received an Advisory Action dated July 13, 2004 on July 16. During the several conversations of the undersigned with Examiner Kruer during the weeks of July 19 and July 26, the undersigned complained about the unfairness of giving Applicant only about three weeks (with all extensions used) to respond to a final Office Action after it had been completed on July 13. The undersigned requested, in view of the Patent Office delay in responding to the request of April 19, that the time for responding to the final Office Action at least be restarted so that Applicant would have adequate time for response to the Office Action and would not have to file a Petition for Three Month Extension of Time just to file a Notice of Appeal. Examiner Kruer stated that he had acted in accordance with Patent Office policy, but would speak to his supervisor to see if Applicant could be granted more time. On July 26, Examiner Kruer informed the undersigned by telephone that he had spoken to the Special Programs Examiner Christine Tierney and that she had agreed with him and his supervisor not to grant any additional time for response. He stated that our only recourse was a petition to have the final action withdrawn.

The undersigned then had several telephone conversations with Special Programs Examiner Tierney on July 30 and August 3, 2004. The undersigned again pointed out the unfairness of giving Applicant inadequate time for response after completion of the Office Action in the Advisory Action of July 13. Examiner Tierney stated that she had no authority to grant more time and that Applicant's only recourse was to petition to have the finality of the Office Action withdrawn. The undersigned replied that Applicant did not contest the propriety of the finality of the Office Action, but only the incompleteness of the Office Action and the fact that the final Office Action was incomplete and did not give Applicant proper notice of the Examiner's position to which Applicant could then respond. It was further pointed out that the Request for New Office Action After Final was clearly not a response to the Office Action, but a request that the Examiner specifically address the arguments set forth in the Supplemental Amendment of January 14, 2004 (see second sentence of request filed April 19, 2004). Despite this clear statement, the Examiner chose to treat the Request of April 19 as a response to the final Office Action and issued an Advisory Action, instead of a response to the Request for New Office Action.

Special Examiner Tierney repeated that the Applicant's only recourse was a petition so that she would have all the facts in which to evaluate Applicant's complaint of insufficient time.

Accordingly, this Petition is being filed with the facts set forth above in writing, as previously conveyed orally to Examiner Kruer and Special Programs Examiner Tierney. In view of the above facts, it is requested at least that the time for responding to the final Office Action of February 13 be restarted from the date of granting this petition and that the extension of time fee of \$950.00 paid by Applicant with the accompanying Petition for Extension of Time be refunded to the Deposit Account No. 50-1017 of the firm of the undersigned attorney.

Respectfully submitted,

12 August 2004
(Date)

By: William W. Schwarze (# 42,371)

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